

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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NADEEM ABUALTEEN

Plaintiff,

19 **CIVIL** 2637 (DF)

-against-

JUDGMENT

ANDREW A. SAUL,
Commissioner of Social Security

Defendant.

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It is hereby **ORDERED, ADJUDGED AND DECREED:** That for the reasons set forth in the Court's Memorandum and Order dated September 23, 2020, Plaintiff's motion (Dkt. 11), which the Court construes as a motion for judgment on the pleadings in his favor, is granted to the extent it seeks remand for administrative proceedings, and Defendant's cross-motion for judgment on the pleadings is denied; This case is hereby remanded for further proceedings, pursuant to sentence four of 42 U.S.C. § 405(g); upon remand, the ALJ is directed:

- (1) to reevaluate whether, for the relevant period, Plaintiff's impairments met or equaled the requirements of Listing 1.04(A), in light of the Record as a whole and the conflicting evidence relevant to the criteria of that Listing, and, if the ALJ adheres to his original determination that the Listing was not met or equaled, then to explain the basis for that determination, with reference to the evidence cited herein; and
- (2) if the ALJ continues to find that Plaintiff is not disabled based on Listing 1.04(A), then:
 - (a) to reassess the weight that should be assigned to the opinions of treating physicians Dr. Schwartz and Dr. Dynof, after seeking clarification of their opinions with regard to (i) their assessed limitations of Plaintiff's use of his left arm and shoulder, and (ii) Dr. Schwartz's assessment that Plaintiff would

need to take frequent breaks from both standing and sitting positions; and

- (b) upon reweighing the medical opinion evidence, to reconsider Plaintiff's RFC, and, if necessary, to recall the VE for additional testimony to evaluate whether Plaintiff's reassessed RFC would have precluded employment for Plaintiff during the relevant period.

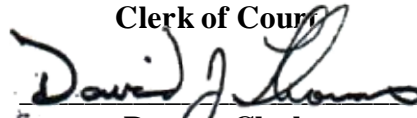
Judgment is entered in Plaintiff's favor and the Case is remanded.

Dated: New York, New York
September 23, 2020

RUBY J. KRAJICK

Clerk of Court

BY:


Deputy Clerk